

# EXHIBIT B (PART 3)

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Volume II  
Pages 2-1 to 2-212  
Exhibits 17 to 27

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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:  
EQUAL EMPLOYMENT OPPORTUNITY :  
COMMISSION, :  
Plaintiff, :  
:  
JOHN BALDWIN, LEONARD BELL, :  
JOHANNES KAINDOH, WAYNE :  
HENDERSON, GODWIN ENAGBARE :  
and JOE L. WILLIS, :  
Intervenor-Plaintiffs, :  
:  
-against- : C.A. No.  
: 04-12097-GAO  
:  
WASHINGTON GROUP :  
INTERNATIONAL, INC., RON :  
BENNETT, MICHAEL FOGARTY and :  
DENNIS WOODRUFF, :  
Defendants. :  
:  
-----x

CONTINUED DEPOSITION OF WARREN R. ANDERSON,  
a witness called on behalf of the Plaintiff, taken  
pursuant to the Federal Rules of Civil Procedure,  
before Ken A. DiFraia, Registered Professional  
Reporter and Notary Public in and for the  
Commonwealth of Massachusetts, at the Offices of  
Equal Employment Opportunity Commission, John F.  
Kennedy Federal Building, Government Center, Boston,  
Massachusetts, on Thursday, April 13, 2006,  
commencing at 10:11 a.m.

PRESENT:

Equal Employment Opportunity Commission  
(by R. Liliana Palacios, Esq.)  
John F. Kennedy Federal Building, Room 475,  
Government Center, Boston, MA 02203-0506,  
for the Plaintiff.

## PROCEDINGS

WARREN R. ANDERSON, Resumed

3 a witness called for examination by counsel for the  
4 Plaintiff, being previously duly identified and  
5 sworn, was examined and testified as follows:

DIRECT EXAMINATION, Continued

BY MS. PALACIOS:

Q. Good morning.

A. Morning.

10 Q. I'm going to just remind you that you are  
11 still under oath. This is the continuation of your  
12 deposition on the second day. You understand that?

13 A. Yes.

14 Q. I wanted to just do a little bit of cleanup  
15 on some of the things I asked you about yesterday  
16 before I go into another area.

17 I just had a question, to the extent that  
18 you know, I understand Mr. McDaniel is the corporate  
19 EEO coordinator at WGI. Does he ever get assigned  
20 to the field like you are, if you know?

21 A. Not that I know.

22 Q. Does every site that WGI has always have an  
23 EEO contact to your knowledge?

24 A. Well, Mike is the EEO contact for every

1 site.

2 Q. Do you know if Mike has a 1 800 number for  
3 folks to contact him if necessary?

4 A. I believe he does, but I can't say for  
5 sure.

6 Q. Do you know why you were designated the EEO  
7 contact at Mystic as opposed to Mr. McDaniel?

8 A. Well, he's not there.

9 MR. PATERNITI: I would just insert an  
10 objection. Go ahead.

11 A. Now, I know I believe in some of the  
12 postings, we did put his name on there if someone  
13 wanted to go beyond the site. Again, someone has to  
14 be designated as a contact person for EEO for the  
15 site.

16 Q. Oh, actually on the site?

17 A. Yes, and if a labor relations person isn't  
18 on the site, it's going to be the project manager  
19 that will have that designation.

20 Q. I wanted you to look at the second page of  
21 Exhibit 8, which was the letter from Stephen Hanks  
22 referring to the sexual harassment policy.

23 You will notice towards the end of the  
24 letter, there's a reference to the company having a

1 procedure in place for resolving harassment and  
2 discrimination complaints. Do you see that?

3 A. (Examines document) Yes.

4 Q. Can you tell me, if you know, where I could  
5 find that procedure.

6 A. To my knowledge, the procedure would be  
7 contained in the EEO manual.

8 Q. What is the EEO manual?

9 A. It's all the company policies, as I recall,  
10 on EEO and affirmative action. There are sample  
11 letters to the union, sample postings, a general  
12 reference manual.

13 Q. Is that different than the labor relations  
14 manual we discussed yesterday?

15 A. Yes.

16 Q. Thank you. You can put that aside.

17 I'm not actually going to ask you a lot of  
18 questions about Exhibit 16, which we discussed  
19 yesterday, the notes of the investigator on your  
20 interview. I understand that you objected to the  
21 interview in the way you did yesterday, but I did  
22 want to ask you a couple of questions based on what  
23 the notes say.

24 If you could look at Page 7 of Exhibit 16.

1 Q. Have a safe trip home.

2 CROSS EXAMINATION

3 BY MR. BENNETT:

4 Q. Good afternoon, Mr. Anderson.

5 A. Afternoon.

6 Q. This is my opportunity to ask you some  
7 questions. I will try to be as quick as possible so  
8 we can get you out of here and back to Denver.

9 Are all the WGI employment policies and  
10 procedures supposed to be applied uniformly to all  
11 employees?

12 A. Site job rules would be, but obviously  
13 there would be variations to that for staff  
14 employees.

15 We have ethics issues that a craft worker  
16 wouldn't, but generally your site rules on a site  
17 would apply to everyone, yes.

18 Q. So, for example, if it says that workers  
19 are not supposed to do X, Y or Z at the site, that  
20 type of policy would apply to all workers uniformly?

21 A. If two superintendents were in a fist  
22 fight, they would both be fired, for instance.

23 Q. Were EEO policies given to the foremen?  
24 Were there ever written policies given to the

1 foremen?

2 A. Not specifically, no.

3 Q. I'm talking about at the Mystic site, of  
4 course.

5 A. If a foreman were to come on after I  
6 supplied those documents which we talked about  
7 yesterday for the safety department to hand out,  
8 then they would have, but prior to that, no, not  
9 that I'm aware of. I'm not aware of it.

10 Q. Are you talking about the September 16,  
11 2002 documents that are part of the check stuffer  
12 type thing? Which document is it?

13 MR. PATERNITI: Why don't you take a look  
14 at the exhibits.

15 MS. PALACIOS: I believe it's Exhibits 5, 6  
16 and 7.

17 MR. PATERNITI: Yes, 5, 6 and 7. Take a  
18 look at those. Here's No. 5.

19 A. These postings were also then handed out in  
20 orientation as part of a package. A foreman coming  
21 on board at that time period or later would have  
22 received this.

23 Q. You are referring to Exhibits 5 through 7?

24 A. That's correct.

1           Q.    Is it fair to say that these postings came  
2 about on or about, as I think the position statement  
3 refers to the date of, September 16, 2002?

4           A.    It would have been in that time period,  
5 correct.

6           Q.    Is it fair to say that prior to  
7 September 16, 2002, there were no EEO policies or  
8 any type of affirmative action type policies  
9 provided by WGI to any foremen; is that correct?

10          A.    Not to my knowledge, no.

11          Q.    That same question goes to employees.  
12         Would there have been any type of EEO policies,  
13         affirmative action policies, cultural diversity  
14         policies handed out by WGI to employees prior to  
15         September 16, 2002?

16          A.    Not to my knowledge.

17          Q.    The same question goes as far as general  
18         foremen, assistant superintendents, superintendents  
19         and everyone up from there, would it be fair to say  
20         that no EEO policies, cultural diversity policies,  
21         affirmative action policies were provided to anyone  
22         above the level of a foreman by WGI either; is that  
23         correct?

24          A.    No, no. Staff people, whether it was

1 through an E-mail or a mailing, generally once a  
2 year, as I can best recall, were reminded of the  
3 policies of the company when it came to EEO and  
4 affirmative action.

5 Q. What do you mean by "staff personnel"?

6 A. That would be anyone who is a salaried  
7 individual that works for Washington Group, not an  
8 hourly craft worker.

9 Q. Is a general foreman considered to be a  
10 craft worker or a staff person?

11 A. Craft worker.

12 Q. How about the assistant superintendent?

13 A. That would be a staff person, a salaried  
14 staff person.

15 Q. Would you agree with me that from the  
16 general foreman, the next step up would be assistant  
17 superintendent, or is there something I'm missing?

18 A. Well, you may not have an assistant  
19 superintendent in a structure. A general foreman  
20 may report directly to a superintendent.

21 Because of the extreme size of this  
22 project, we had assistant superintendents. In a  
23 fairly normal sized job, you wouldn't have so many  
24 layers.

1       Q.    Would it be fair to say the next step up  
2 from general foreman would be either assistant  
3 superintendent or superintendent?

4       A.    Yes.

5       Q.    The distinction between a craft worker and  
6 a staff employee came from the ascension from  
7 general foreman to either assistant superintendent  
8 or superintendent?

9       A.    Yes, because that ascension is really  
10 reflected in the labor agreement. The general  
11 foremen on down are all craft employees referred by  
12 the union. They are considered temporary employees,  
13 compared to a permanent staff employee.

14      Q.    You said EEO policies were given by WGI to  
15 staff employees?

16      A.    Yes, on a regular basis every year. In  
17 fact, just a couple of months ago, I received an  
18 E-mail from Steve Hanks similar to Exhibit No. 8.

19      Q.    Is there any documentation of when staff  
20 employees at Mystic would have received any EEO  
21 policies by WGI?

22      A.    I would have no idea.

23      Q.    When did you say you came onto the Mystic  
24 job site?

1       A.     The 5th or 6th of December in 2001.

2       Q.     When you got there, did you have any  
3     knowledge whether any EEO policies were distributed  
4     to any of the staff employees?

5       A.     No, and I may not ever know that because  
6     they are usually E-mailed or mailed to staff  
7     employees that work for Washington Group.

8       Q.     Who mails the policies out?

9       A.     Oh, they come out of corporate. I don't  
10    know. I don't know that.

11      Q.     Is there any particular time of the year  
12    that the EEO policies get mailed or E-mailed to  
13    staff employees?

14      A.     Usually around the first of the year, to  
15    the best of my knowledge.

16      Q.     What would you say the protocol would be if  
17    a foreman was notified by an employee of racially  
18    offensive graffiti on the site or if that foreman  
19    saw racially offensive graffiti? The foreman, what  
20    is he supposed to do about that?

21      A.     Well, if he's going to do something about  
22    it, that's what we would have to assume, that he's  
23    actually going to do something.

24      Q.     Let me stop you. Is he supposed to do

1 something?

2 A. Of course. It's offensive, and it is not  
3 proper on a job site to have any graffiti.

4 Q. What is he or she supposed to do then?

5 A. If he or she, for instance, was a member of  
6 the laborers union, they could assign a laborer to  
7 clean it up right now.

8 If this individual was a member of some  
9 other craft, let's say a pipefitter, it would  
10 generally go to the proper foreman or supervisor  
11 that could get someone to do that.

12 One member of a craft can't direct someone  
13 else to do any kind of work, only in a safety  
14 violation. That's the one time the rule doesn't  
15 apply. All crafts are very tight about their work,  
16 though.

17 A pipefitter foreman cleaning a port-o-john  
18 or cleaning a wall would actually get some reaction  
19 from the laborers, "That's our job," if I'm making  
20 sense.

21 Q. What if a boilermaker foreman saw or heard  
22 about racially offensive graffiti at the job site,  
23 what should he have done?

24 A. He could tell a superintendent, who'd go

1 and take care of it, contact the proper people. It  
2 would not be a difficult process. It would be a  
3 very easy process. If there were laborers in the  
4 area working, "Clean it off from there, will you."

5 I don't mean do make it sound so  
6 structured. It's not like that. If there's cleanup  
7 to be done, though, normally the laborers handle  
8 that on a construction job.

9 Q. If there was a report about racially  
10 offensive graffiti to a foreman, would you be made  
11 aware of that?

12 A. Not necessarily at all, no.

13 Q. Would there be any documentation of the  
14 report of racially offensive graffiti to a foreman?

15 A. If someone documented it specifically,  
16 there would be, but if they didn't, then there  
17 wouldn't be.

18 Q. Same question relative to a general  
19 foreman. If the general foreman received a  
20 complaint about racially offensive graffiti, what  
21 should he or she do?

22 A. The same answer I just gave you.

23 Q. What about if a foreman received a report  
24 from an employee about a racially offensive comment

1 or racially offensive behavior, what is the  
2 appropriate action for that foreman to do?

3 A. Notify the steward, notify his superior,  
4 but ultimately something like that, you certainly  
5 get it up the line to management. That's an issue  
6 management needs to be aware of.

7 Q. Was there any instruction to the foreman on  
8 what to do in the event of a report by an employee  
9 of racially offensive conduct or a racially  
10 offensive comment?

11 A. No, not that I recall. Most would know  
12 that if they have a problem, being professional  
13 supervisors, for the most part, most of them, that  
14 an issue like that needs to be handled, needs to go  
15 to a superintendent, needs action.

16 Q. You said most of them would know. Why do  
17 you say that?

18 A. Well, because there's no group of people  
19 where everyone performs perfectly. That's why I say  
20 that.

21 Q. Is it your position that Washington Group  
22 efficiently and effectively investigated the  
23 racially offensive graffiti at the Mystic site?

24 MR. PATERNITI: Objection. Go ahead.

1 two employees that were alleged to have been in the  
2 fight were?

3 A. I may have, but I don't recall now.

4 Q. At the time, did you talk to the two  
5 employees who were alleged to have been in the  
6 fight?

7 A. At the time of the fight?

8 Q. Or shortly thereafter.

9 A. Oh, I didn't know anything about the fight  
10 for quite a long time. That came out in some of the  
11 filings by the plaintiffs.

12 Q. Was there an EEO coordinator on the site  
13 for the night shift?

14 A. No, there was not.

15 Q. I forgot, did you say your title was also  
16 the EEO coordinator?

17 A. I was designated by Washington Group to be  
18 the EEO coordinator and the primary contact for any  
19 issues that came up.

20 Q. I think you said you usually got there  
21 between five and 5:30 or around there in the morning  
22 and stayed until 5:00 p.m.?

23 A. That's correct.

24 Q. Is it fair to say that there was no one

1 that did what your duty was during the day, no one  
2 to do that during the night shift as far as the EEO  
3 was concerned?

4 A. That's right.

5 Q. If someone on the night shift wanted to  
6 come to you, they would obviously wait until the  
7 next day that you were there?

8 A. That's correct.

9 Q. Or they would leave a message, correct?

10 A. That's correct.

11 Q. I think you answered this earlier, but I  
12 will ask it again because I just don't remember. Is  
13 it fair to say you never spoke to Victor Ussow?

14 A. That's correct.

15 Q. Why is that?

16 A. The information that I got from Charley  
17 Belangia was this incident had occurred I believe a  
18 couple of months before, not in my discussion with  
19 Charley, I didn't know about the Victor Ussow  
20 incident when it occurred, but after a couple of  
21 months passed and there were the filings, I talked  
22 to Charley Belangia, and he related to me that Mike  
23 Fogarty had the individuals, the break room people  
24 that had originally been involved in it, had Victor

1 already been at work. As I recall, it was dark  
2 outside.

3 I asked him, "Did you tell a joke involving  
4 the word nagger?" He said, "Yes, I did." I said,  
5 "Would you relay the joke to me."

6 He said, "Two guys are walking down the  
7 street. One says to the other one, 'Is your wife a  
8 nagger?' The other one says 'No, she's just a  
9 little old white lady.'" He readily admitted the  
10 joke.

11 Q. Was that similar to the joke that  
12 Mr. Baldwin had complained about in the paperwork?

13 A. Yes. He misquoted it, however, I believe.  
14 I remember the joke very well because I was asking  
15 the party to relay it exactly to me as he told it.

16 Q. When was this conversation with Mr. Finch?

17 A. My best memory is maybe October/early  
18 November. I would have to go back to the notes.

19 Q. What, if anything, did you say to Mr. Finch  
20 about that?

21 A. I said it was not funny. I said, "It's  
22 stuff like that that gets companies in trouble." I  
23 said, "Did you ever consider you could be sued as an  
24 individual for behavior that could be alleged as

1 racist conduct?" "Well, I really didn't think about  
2 it."

3 I said, "Well, your supervisor here, in  
4 front of your steward, we're putting you on notice  
5 that if your name ever comes up in any fashion with  
6 any racial context, the company will take action  
7 against you. Do you understand?" He said, "Yes."

8 Q. Why wasn't Mr. Finch terminated at that  
9 point?

10 A. This was long after the incident.

11 Q. Do you know if Mr. Finch still works for  
12 WGI?

13 A. I would doubt it. I don't know  
14 specifically, but he would have been laid off, I  
15 would imagine.

16 Q. As perhaps a reduction in force?

17 A. Yes.

18 Q. Was anything in writing placed in  
19 Mr. Finch's personnel file?

20 A. No, not that I'm aware of.

21 Q. Why not?

22 A. He was given a verbal warning. It doesn't  
23 necessarily have to be documented. His steward  
24 heard it.

1       A.     Let me think for a second. I can't recall  
2 whether he was aware of the charge or not, but I  
3 just wanted to make sure he was.

4                 The conversation was very short. The first  
5 time I called I talked to his wife. He didn't call  
6 back. I called again.

7                 It was only right that he be notified. He  
8 was a party to this. It was not a long  
9 conversation.

10          Q.     You didn't have an in-depth conversation  
11 about --

12          A.     No.

13          Q.     I have to finish the question. Is it fair  
14 to say you didn't have an in-depth conversation with  
15 him regarding any substance of the allegations  
16 regarding any of these complaints?

17          A.     That's correct.

18                 MR. BENNETT: Off the record.

19                 (Discussion off the record)

20                 (Recess at 4:45 p.m.)

21          MR. BENNETT: (4:53 p.m.) I will stop now  
22 and let Jacques do cross.

23

24

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1 A. The journal I have now?

2 Q. All the journals, basically the compilation  
3 of your journals.

4 A. I keep all my journals over the years.

5 Yes.

6 Q. Were you ever trained by WGI or any of its  
7 employees or contractors to conduct investigations  
8 based upon allegations of discrimination of any  
9 nature?

10 A. Specifically trained would be your question  
11 to do this kind of activity?

12 Q. To train you to train others in terms of  
13 how to deal with discrimination.

14 A. Oh, I'm sorry. Have I ever been trained to  
15 train others?

16 Q. That's correct.

17 A. No.

18 Q. Have you ever witnessed any acts of racial  
19 discrimination in your lifetime?

20 A. Personally? On the police department I  
21 did.

22 Q. Can you describe those incidents to me.

23 A. Other officers being racist, yes.

24 Q. Around what year? When was that, if you

1 can briefly tell me that?

2 A. Maybe '71, '72, '73, somewhere in there.

3 Q. Have you ever witnessed racial  
4 discrimination at work?

5 A. Where I was a witness to the  
6 discrimination, not that I can recall, no.

7 Q. And that includes WGI or Morrison-Knudsen  
8 or any of the predecessors.

9 A. Stone and Webster. No.

10 Q. Let me ask you, do you think the word  
11 "nigger" is a racially offensive word?

12 A. Absolutely.

13 Q. You testified WGI's projects, including  
14 those at the Mystic and the Weymouth sites, do not  
15 have equal employment opportunity officers.  
16 However, you serve as an equal opportunity officer  
17 or coordinator; is that correct?

18 MR. PATERNITI: Objection.

19 Q. It does not have an equal opportunity  
20 officer, but you serve as an equal opportunity  
21 coordinator, correct?

22 A. Yes. I'm the contact person for those  
23 issues.

24 Q. What is the difference between an equal

1 opportunity officer versus an equal employment  
2 coordinator?

3 A. I'm not an EEO professional. The EEO  
4 officer for the company is an EEO professional. I'm  
5 not and don't purport to be.

6 Q. What does it entail in terms of being an  
7 EEO professional, as you put it?

8 A. Whatever training that individual has had  
9 over his or her life to prepare them to be an EEO  
10 officer for the corporation. I don't know  
11 specifically what that is.

12 Q. What does it entail to be an EEO  
13 coordinator then?

14 A. Someone on a job site, because we can't  
15 have all types of people in all jobs. You can have  
16 a massive staff. You just can't practically do it.  
17 You have to identify one individual that's  
18 responsible as a starting point for issues.

19 If the project is small, the project  
20 manager has that. He's required to handle an EEO  
21 problem if it comes up, a labor relations problem.  
22 Then that individual is going to reach out to the  
23 professionals in the corporation to actually get  
24 involved and give them guidance, try to get the

1 matter resolved or whatever.

2 Q. You said you can't have all positions at  
3 all the sites, but how would one determine exactly  
4 when to have it, such as an EEO officer?

5 A. I can't think of a specific project where  
6 we had a designated EEO officer professional come  
7 and be at the job site. That's a corporate support  
8 function normally.

9 Q. Does WGI have an in-house staff of  
10 attorneys?

11 A. Yes.

12 Q. Can you identify those individuals for me.

13 A. Bob Berlin...

14 Q. For each name, give me the title, please.

15 A. Bob Berlin, he's a staff attorney. I don't  
16 know his specific title. There's other attorneys.  
17 I believe he works for Rich Perry, which would be  
18 probably the corporate attorney.

19 We have others, but I don't know their  
20 names. My communication is done with Bob Berlin.

21 Q. In any event, you certainly can get that  
22 information?

23 A. Absolutely.

24 Q. If we were to ask you for that, you could

1 provide that?

2 A. You bet.

3 Q. Have you ever worked or communicated with,  
4 for example, Bob Berlin or any of the other  
5 attorneys regarding the racial discrimination and  
6 training and things you dealt with at the Mystic  
7 site?

8 A. When these issues came up and there were  
9 filings, Bob Berlin was involved in that, as well as  
10 Erin Higgins, Mike McDaniel. There would have been  
11 discussions with them. I can't specifically  
12 remember now.

13 Q. Without telling me exactly the nature of  
14 your conversation with Bob Berlin or the other  
15 in-house attorneys, what exactly did you -- what was  
16 your involvement with them?

17 A. They have to be kept informed, usually Mike  
18 McDaniel in this particular case. I talk to Bob  
19 Berlin about labor relations issues on a fairly  
20 regular basis.

21 For these particular cases, Mike McDaniel  
22 would have had most of the communication with Bob  
23 Berlin.

24 Q. Is it fair to assume that you being the

1 coordinator on the site, then Mike McDaniel would  
2 also touch base with you regarding some of his  
3 conversations, if not all of them, with Berlin?

4 A. Sure, part of normal conversations.

5 Q. You stated both to Attorney Bennett and to  
6 Attorney Palacios that you assisted your lawyers,  
7 including WGI's in-house attorneys, in preparing the  
8 discovery responses to the various discovery  
9 requests that we all made; is that correct?

10 MR. PATERNITI: Objection.

11 A. Yes.

12 Q. Could you briefly describe exactly what you  
13 mean by assisting. What exactly did you do by  
14 assisting?

15 A. Provided information, parts of information,  
16 pieces of information, things that I knew.

17 Specifically I may say, "Listen, you may  
18 need to contact these people because they know  
19 details, also." They would do that. Coordination,  
20 provide what I knew, but other people have to  
21 provide what they knew, too.

22 Q. You stated yesterday that you had postings,  
23 and the postings would be posted, for example, in  
24 the toolbox meetings, would be posted on the

1 bulletin board; is that correct? There was a  
2 bulletin board where you had postings that you  
3 posted there?

4 A. Yes.

5 Q. To clarify, were any other items posted on  
6 that bulletin board?

7 A. There was some safety information up there  
8 that I recall.

9 Q. Were you the only one that posted documents  
10 there?

11 A. The safety department did, also.

12 Q. Is it fair to say only safety and perhaps  
13 policies that were posted, or were there other  
14 things?

15 A. That's all I can recall. I mean...

16 Q. Mr. Anderson, you testified yesterday that  
17 as a police officer, it was important to write  
18 coherent reports; is that correct?

19 A. Yes.

20 Q. You further stated that the report writing  
21 was fairly critical?

22 A. Yes.

23 Q. In your capacity as an equal employment  
24 coordinator and as a director of labor relations,

1 you didn't draft any reports regarding your  
2 investigation in connection with the complaints; is  
3 that correct?

4 A. Some of them. You have to be more  
5 specific.

6 Q. Which reports did you draft for which  
7 incidents basically with respect to the allegations  
8 that are in contention here?

9 A. There were a couple of meetings with Joe  
10 Willis that rather than just the notes in my log, I  
11 made separate notes.

12 Q. You say you made separate notes. Were they  
13 notes or reports? I'm trying to understand.

14 A. They were notes to help me in guiding me in  
15 discussing the matter with McDaniel to try to keep  
16 the incidents clear in my mind.

17 Q. You or WGI didn't have a protocol of  
18 actually keeping a report for each incident that  
19 occurred, correct?

20 MR. PATERNITI: Objection.

21 A. No, not necessarily a formal report for  
22 everything that occurred. No.

23 Q. Did you or WGI have a protocol in place for  
24 investigating complaints?

1                   MR. PATERNITI: Objection.

2                   A. Define "protocol."

3                   Q. If you had a policy that states that -- for  
4 example, in our case just say Joe Smith comes to you  
5 and he has a racial discrimination complaint, and he  
6 tells you exactly, "Here is what you need to do as  
7 an EEO coordinator in terms of investigating this."  
8 There are certain steps to take in terms of  
9 contacting people, writing documents, tracking it,  
10 putting it in a file. Was there a policy in place  
11 as to exactly how to do that?

12                  A. No.

13                  Q. Was there a policy in place for tracking  
14 each complaint?

15                  A. No.

16                  Q. Did you document, investigate and track  
17 every separate incident when an employee complained  
18 about racial discrimination or being in a racially  
19 hostile environment?

20                  A. Be a little more specific.

21                  Q. I'm asking you whether when there was a  
22 racial complaint or a complaint regarding racial  
23 discrimination or a racially hostile environment,  
24 whether you or a member of WGI really actually

1 investigated that, tracked that and documented each  
2 complaint, if there was a system to do just that?

3 MR. PATERNITI: Objection. Go ahead.

4 A. Not a formal system, but there would be  
5 notes taken. There might be a typed report done.  
6 What would come out of that would be kept somewhere,  
7 in a file, for instance, but there was not a  
8 specific guidance document that would tell you how  
9 to do this each and every time.

10 The idea was to get the pertinent  
11 information and retain that and fix the problem if  
12 possible. That would be the goal, not necessarily a  
13 lot of structure on how the paper would flow or be  
14 kept.

15 That's a general answer to your question.

16 Q. If I can get back to specifically  
17 Mr. Enagbare and Mr. Willis for a moment. Do you  
18 know how many times Mr. Enagbare complained to his  
19 foreman?

20 A. I don't.

21 Q. Do you know how many times he complained to  
22 his general foreman?

23 A. I do not.

24 Q. Do you know how many times he complained to

1 his steward?

2 A. I do not.

3 Q. There's no way, no system in place, no  
4 policy in place for tracking those complaints?

5 MR. PATERNITI: I would object to that  
6 whole series regarding just "complaints."

7 Q. For racial discrimination complaints.

8 A. No, no system in place.

9 Q. Do you know how many times Mr. Willis made  
10 any complaints with respect to racial discrimination  
11 or a racially hostile environment to his foreman?

12 A. I do not.

13 Q. Do you know how many times Mr. Willis made  
14 any such complaints with respect to racial  
15 discrimination or a hostile environment to his  
16 general foreman?

17 A. I do not.

18 Q. Do you know how many times he made the same  
19 type of complaints to his steward?

20 A. I do not know.

21 Q. You testified that you had an opportunity  
22 to actually at one point review the complaints or  
23 charges that were filed by Mr. Willis and  
24 Mr. Enagbare to the EEOC, correct?

1           A.     Yes, at some time in the past.

2           Q.     How did it come about in terms of you  
3 reviewing those complaints?

4           A.     The company received the complaint. I  
5 don't remember whether it was in Birmingham with  
6 Mike McDaniel or myself. That would have been  
7 shared with me to look it over.

8           Q.     When it was mailed out, the company would  
9 get it, and you are thinking maybe Mike McDaniel got  
10 it and he actually contacted you as the coordinator  
11 on-site?

12          A.     Yes. If it wouldn't have been me, he would  
13 have used the project manager or someone at the  
14 site, of course.

15          Q.     Do you recall what, if anything, you did  
16 upon being contacted or upon learning of the charges  
17 that were filed by either Mr. Enagbare or  
18 Mr. Willis?

19          A.     If you are saying what did I specifically  
20 do upon seeing the charge or reviewing the charge, I  
21 would have begun a process of talking to Mike,  
22 gathering any information that needed to be  
23 gathered, was there going to be a position statement  
24 done. There would be a series of events taking

1 place. I believe that's my best answer to you.

2 Q. After learning of the complaint, did you  
3 contact either Mr. Enagbare or Mr. Willis with  
4 respect to the complaints that were filed?

5 A. I would have to see the dates that we got  
6 the complaints. Then I would have to look at my  
7 logbook maybe.

8 Q. If you have your logbook at any given point  
9 while you are here, feel free to pull it out to  
10 refresh your memory.

11 Here's the notice that was sent out. I'm  
12 actually not going to introduce that into evidence  
13 as an exhibit to the deposition.

14 A. (Witness reviews document) Okay.

15 Q. I think it was mailed either on the 28th or  
16 29th. It's safe to say you didn't get it on those  
17 dates, right?

18 A. Right. I recall that at the meeting that I  
19 had, the first meeting with Godwin on the 5th of  
20 September, that the knowledge of him making this  
21 filing was there.

22 Q. So at least by the 5th of September of  
23 2002, you had knowledge of the fact that  
24 Mr. Enagbare had at least filed his complaint?

1       A.     Yes, because I have a notation in my log to  
2 that effect, that he said he had went to the EEOC  
3 and filed a charge.

4       Q.     Are you finished?

5       A.     I'm done.

6       Q.     Do you recall whether by September 5, 2002,  
7 Mr. Willis had filed a complaint?

8       A.     No, I don't recall that right at the  
9 moment.

10      Q.     In terms of your investigation of the  
11 matters in the complaint, what, if anything, did you  
12 learn, if anything, about Mr. Enagbare?

13      A.     You have to be more specific.

14      Q.     You conducted an investigation?

15      A.     Yes. I spoke with him a few times, yes.

16      Q.     Let me be specific with respect to  
17 allegations that Mr. Enagbare himself may have used  
18 the word "nigger." Were you aware of that?

19      A.     Yes, I became aware of that at some point.

20      Q.     At what point did you become aware of that?

21      A.     I believe it might have been in a grievance  
22 hearing dated the 20th, or sometime in the latter  
23 part of September.

24      Q.     You never observed yourself, though, or

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1           Q.    In light of what you have seen and in light  
2 of your own testimony that these pictures are  
3 racially offensive, if you had the opportunity,  
4 would you have done anything differently in terms of  
5 dealing with the racially offensive graffiti at  
6 Mystic?

7           A.    Would I have done anything differently?

8           Q.    Yes, you, or would you have suggested  
9 anything to be done differently to WGI?

10          A.    We established a crew to take care of it.  
11          The graffiti comes and goes. You can erase it. It  
12 will be right back up there in a second. It's an  
13 ongoing task that has to take place. I think the  
14 crew did a good job over time.

15          Q.    So you would not have done anything  
16 differently; is that the answer?

17          A.    What was done was done. It is what it is.

18          Q.    I'll leave it at that. That's fine.

19          Would it have been reasonable for you to  
20 visit the site, the specific location where, for  
21 example, Mr. Enagbare, Mr. Willis and the other  
22 Intervenor-Plaintiffs stated where they saw racially  
23 offensive graffiti?

24          MR. PATERNITI: Objection.

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1 Q. Would that have been reasonable?

2 A. Not really. I was an incredibly busy  
3 person. We had individuals that worked in the field  
4 all the time that could address those matters.

5 Q. Would it have been reasonable to have those  
6 individuals address that matter?

7 A. I believe they did, the superintendents and  
8 the foremen, stewards.

9 Q. You testified yesterday that you actually  
10 didn't get a chance to see WGI's With all Due  
11 Respect Training tape, correct?

12 A. That's correct, I have not seen it.

13 Q. Would it have been reasonable for you as  
14 the EEO coordinator and director of labor relations  
15 to have viewed that tape?

16 MR. PATERNITI: Objection.

17 A. I don't even know if we had that tape back  
18 then. I don't remember. I don't know.

19 Q. If you were aware of it, would it have been  
20 reasonable for you to have viewed it as the EEO  
21 coordinator?

22 A. It would be a tape that anyone in  
23 management could view. It would be reasonable that  
24 anybody in management could see it, yes.

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1 Q. Would it have been reasonable for you as  
2 the EEO coordinator and the director of labor  
3 relations to have placed some of the policies as a  
4 check stuffer to all the employees?

5 MR. PATERNITI: Objection.

6 A. Are you asking if I did a check stuffer on  
7 policies?

8 Q. Yes.

9 A. Yes. I did two of them.

10 Q. You testified that orientation of employees  
11 did not include EEO policies; is that fair?

12 A. Until I added some, yes, that's correct, to  
13 the best of my knowledge.

14 Q. When did you add some, by the way?

15 A. This would have been around the beginning  
16 of September.

17 Q. What year?

18 A. 2002.

19 Q. Since you never visited the port-o-johns  
20 and the other locations where they had racially  
21 offensive graffiti, I mean, it's hard for you to  
22 gauge how bad the problem really was, correct, since  
23 you never visited those sites?

24 A. No, I couldn't gauge the full extent or

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1 less extent of the problem.

2 Q. While working at other sites for WGI, did  
3 you visit specific areas where they had graffiti,  
4 whether they were offensive or not?

5 A. Over my lifetime, I have seen graffiti. I  
6 cannot be any more specific than that.

7 Q. I'm asking specifically if any complaints  
8 were made at any site? Were there any complaints  
9 made regarding racially offensive graffiti at other  
10 sites when you worked there at WGI?

11 A. I don't know of any. There may have been.  
12 Other individuals may be able to tell you that.

13 Q. Sir, you've been very helpful. Thank you  
14 very much.

15 MR. BENNETT: Off the record.

16 (Discussion off the record)

17 RECROSS EXAMINATION

18 BY MR. BENNETT:

19 Q. Mr. Anderson, is it fair to say that  
20 Mr. McDaniel never came to the Mystic site, as far  
21 as you know?

22 A. To my knowledge, he never did.

23 Q. Did he ever tell you he was traveling to  
24 the Mystic site to look at the racially offensive --

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS. )

3 I, Ken A. DiFraia, Registered Professional  
4 Reporter and Notary Public in and for the  
5 Commonwealth of Massachusetts, do hereby certify  
6 that there came before me on the 13th day of April,  
7 2006, at 10:11 a.m., the person hereinbefore named,  
8 who was by me duly sworn to testify to the truth and  
9 nothing but the truth of his knowledge touching and  
10 concerning the matters in controversy in this cause;  
11 that he was thereupon examined upon his oath, and  
12 his examination reduced to typewriting under my  
13 direction; and that the deposition is a true record  
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or  
16 counsel for, nor related to or employed by, any  
17 attorney or counsel employed by the parties hereto  
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand  
20 and affixed my notarial seal this 27<sup>th</sup> day of April,  
21 2006.

22 Ken A. DiFraia

23 Notary Public

24 My commission expires 4/3/09